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Board of Building Regulations and Standards (BBRS)

Milford District Office – Large Conference Room 2nd Floor

50 Maple Street, Milford MA 01757-3698

December 13, 2016 @ 1:00 p.m.

- Chairman, Richard Crowley (RC) opened the meeting at approximately 1:10 p.m. Chairman Crowley briefly reviewed some DPS staff changes, indicating that more specificity would be offered further along in the meeting, then roll call was taken as follows:

Richard Crowley, Chair	✓ present <input type="checkbox"/> absent	Inspector of Buildings – city, open	<input type="checkbox"/> present ✓ absent
John Couture, V-Chair	✓ present <input type="checkbox"/> absent	Structural Engineer, open	<input type="checkbox"/> present ✓ absent
Robert Anderson	✓ present <input type="checkbox"/> absent	Peter Ostroskey*	✓ present <input type="checkbox"/> absent
Kevin Gallagher	✓ present <input type="checkbox"/> absent	Michael McDowell	✓ present <input type="checkbox"/> absent
Cheryl Lavalley	<input type="checkbox"/> present ✓ absent	Chris Penne	✓ present <input type="checkbox"/> absent
Kerry Dietz	✓ present <input type="checkbox"/> absent		

* Jen Hoyt (JH) participated as the designee for State Fire Marshal, Peter Ostroskey.

General notes on format of these minutes:

- Votes are noted as **Motion** by, seconded by, and whether it was a unanimous or split vote.
- Agenda topics appear herein as numbered but may have been taken out of order as they appear on the meeting agenda.
- The December 13th Agenda is listed as **EXHIBIT A**; others are listed sequentially as addressed during the meeting.

- On a **MOTION** by Michael McDowell and seconded by Jen Hoyt it was unanimously voted to approve the minutes (**EXHIBIT B**) for the November 22, 2016 BBRS meeting with the following comments:

- Jen Hoyt expressed that there are too many acronyms used in the minutes which makes content somewhat confusing and difficult to follow. Jen asked staff to refrain from the use of acronyms when producing minutes in the future.

- John Couture expressed continued concern regarding the appointing authority issue defined by MGL c 143, §3, indicating that, notwithstanding statements made in the November minutes, he believed the reporting structure to be clear, yet municipalities continue to violate legal mandates.
 - Rob Anderson presented the referenced section on the overhead screen for viewing; specifically, the section reads in part (for clarity *emphasis* is added to portions relating to Mr. Couture's concern): *"The **chief administrative officer** of each city or town shall employ and designate an inspector of buildings or building commissioner as well as such other local inspectors as are reasonably necessary to assist the inspector of buildings or building commissioner to administer and enforce the state building code as well as section thirteen A of chapter twenty-two and the rules and regulations made under the authority thereof. The building commissioner or inspector of buildings shall be the administrative chief in a city or town responsible for administering and enforcing the state building code as well as section thirteen A of chapter twenty-two and the rules and regulations made under the authority thereof. Any additional persons employed by a city or town to assist the building commissioner or inspector of buildings in the performance of his duties shall be called local inspectors. The local inspector shall also be responsible for enforcing the state building code as well as section thirteen A of chapter twenty-two and the rules and regulations made under the authority thereof. **The inspector of buildings or building commissioner shall report directly and be solely responsible to the person or public body that appointed him.** Two or more cities or towns may combine and share expenses in the appointment of any building commissioner or inspector of buildings and local inspectors. If the board of selectmen of two or more towns so vote, such towns may enter into an agreement with the county commissioners of the county wherein such towns are located relative to the appointment and compensation of a building commissioner or inspector of buildings and local inspectors. The county commissioners shall apportion the budget approved for the building commissioner or inspector of buildings and local inspectors in accordance with said agreement. Said apportionment shall forthwith be certified by said commissioners to the board of selectmen of each member town and the amounts so certified shall be appropriated and paid to the county treasurer in accordance with provisions of said agreement"*.
 - Rob indicated that Board members typically review their statutory powers and duties as part of its January meeting agenda. Board members agreed to further discuss this matter during the January, 2017 meeting.
3. On a **MOTION** by John Couture and seconded by Michael McDowell it was unanimously voted to approve the minutes for the November 2, 2016 Building Official Certification Committee (BOCC) meeting (**EXHIBIT C**).
 4. On a **MOTION** by Michael McDowell and seconded by John Couture it was unanimously voted to approve 63 new construction supervisor licenses (CSLs).
 5. On a **MOTION** by Jen Hoyt and seconded by Michael McDowell it was unanimously voted to abolish the *Manufactured Buildings Program Study Group* previously established by Board members since the need is no longer eminent.

On discussion, Rob Anderson introduced the topic, explaining that Felix Zemel has reviewed current program requirements and will be making some recommendations that will eliminate need for a study group. Rob indicated that Felix is scheduled to attend the latter part of the meeting and can further explain.

Chairman Crowley indicated that he would return to this topic when Mr. Zemel arrives to further discuss. In the interim, Chairman Crowley relayed some of his experiences relating to the program, indicating that, in general, there have been relatively few difficulties over the years. However, in response to some complaints received a few years back, Chairman Crowley revealed that he toured several plants to get a better comfort level of processes in place at varied factories to ensure code compliance and product quality. Chairman Crowley indicated that he was generally pleased with what he viewed during these visits.

Mr. Zemel arrived towards the end of the meeting and provided further detail relating to the matter indicating that he has reviewed current processes and has determined what he believes will resolve certain issues recently raised, thereby negating the need for a study group. Although some additional research is necessary to complete a thorough review, a proposal will be forthcoming for Board member review at a future meeting.

6. Rob Anderson introduced the fire-resistant rated duct assembly topic indicating that a white paper has been issued by the *International Firestop Council (EXHIBIT D)* that suggests some differing views on the issue. Rob recognized that Board members have discussed the issue at previous meeting(s) and decided to forward the matter to the Fire Prevention\Fire Protection (FPFP) Committee for further review. Rob asked for the white paper to be forwarded along to FPFP committee members for consideration during review of the topic as well. Board members agreed that the white should be forwarded.
7. Rob Anderson introduced a report drafted by the *Insurance Institute for Business and Home Safety (EXHIBIT E)*. Rob indicated that, notwithstanding the name, the report assesses only residential building code enforcement for life safety and protection of property in coastal regions. *(The report does not address similar issues relating to business use group buildings).*

According to the system used in the report, Massachusetts' rating dropped from 87 points in 2012, when the report was last issued, to 79 in this 2015 report. Rob indicated that he, at first, thought the diminished rating was due to a code currency issue. Typically a code is considered stale (*and significant points are lost*) if the code is 5 years beyond the national standard issue date. Massachusetts currently utilizes the 2009 version of the International Codes. However, according to the report, Massachusetts scored 46 out of a possible 50 points in this category; only a slight point loss.

Rating the commonwealth's building official certification and training program accounted for the most dramatic reduction of points, wherein Massachusetts scored only 13 of a possible 25 points (*losing 12 points*). Rob indicated that he believed the reduction is not warranted in that the commonwealth has a robust building official certification program that includes continuing education. Rob surmised that report writers may have only gleaned program information from the DPS website without having spoken to anyone regarding the process. Nonetheless, Rob indicated other topics that Board members will review later in the meeting will have a direct and positive impact on concerns raised by the report.

International Code Council (ICC) Vice President of State & Local Government Relations, Dottie Harris, was present at the meeting and provided contact information for Siavash Farvardin who helped author the report and who may have information regarding its development.

8. Rob Anderson introduced the topic of *CSL Continuing Education On-line Training Protocols (EXHIBIT F)* indicating that the matter had first been considered in April of this year, but determinations had not yet been established. Rob explained that some approved education providers have complained about certain on-line courses that do not follow basic protocols and do not require a licensee to demonstrate subject knowledge during or after the training. Typically, on-line trainings require a viewer to answer a question or series of questions about subject matter in order to advance through the program. Rob explained that, although on-line training is allowed via CSL regulations (780 CMR 110, R7), detailed specifications are not defined by the regulation as to how to appropriately conduct training. Based on complaints received, Rob indicated that he viewed certain approved courses and confirmed that a viewer did not need to pay much attention to the material. Rob explained that he played the presentation in the background as he attended to other work. Licensees could do the same, thereby negating the benefit of continued education.

Home builder and education coordinator, Brad Campbell, confirmed that he too (*and others in the industry*) have viewed less than desirable programs that have been developed and approved for continuing education purposes. Mr. Campbell indicated that he has spoken with Rob Anderson in the past in hopes of establishing reasonable on-line protocols so that Board members may experience valuable education offerings.

Although Mr. Campbell was pleased that protocols were drafted for consideration by Board members, he believed that further specificity was needed before the protocols could be approved and initiated. Mr. Campbell indicated that the home builders have been in process of developing its own on-line trainings and expressed that, to do it well, requires thought and planning. In addition to general protocols to ensure that viewers actually have a meaningful learning experience, Mr. Campbell indicated that Board members (*and continuing education course providers*) need to be mindful of licensees with vision and/or hearing difficulties and provide for them during trainings. In short, to do things correctly, takes time and thoughtfulness as well as money to properly develop meaningful, on-line trainings.

Both Michael McDowell and Jen Hoyt echoed the need for reasonable on-line protocols. However, they cautioned that allowing licensees to acquire all continuing education hours via on-line trainings may not be best for the licensee or the program. Mike advocated for fewer hours, perhaps only 6 of the required 12, being allowed via on-line training. Jen supported a lesser number as well. Chief Gallagher noted that fire service on-line continuing education hours are limited.

Following discussion on the matter, Chairman Crowley indicated that further work appears necessary before protocols can be finalized and implemented. Chairman Crowley asked staff to work with Mr. Campbell (*and others if desired*) to develop another draft for further consideration.

9. Rob Anderson introduced the topic of *On-boarding and Final Exam Module* substitution for certified building official exam (**EXHIBIT G**). Rob indicated that, earlier in the year, Board members had voted to eliminate the final (*technical*) module in the exam series required to become certified as an inspector of buildings\building commissioner. Rob reminded Board members that, in order to become certified in the highest capacity in Massachusetts, a candidate must pass exams 1A, 1B and 3B as offered through the *National Certification Program for Construction Code Inspectors* (NCPCCI) or *International Code Council* (ICC) equivalent exams, and the legal, managerial and technical (*now known as building codes and standards*) *Certified Building Official* (CBO) exam modules.

Rob expressed positive opinions of the CBO legal and management modules, but indicated that he and others believed that the building codes and standards module stretched too far afield as to what a Massachusetts building official needed to know. John Couture echoed this sentiment.

In April this year Board members agreed to eliminate the codes and standards module as long as suitable education could be substituted. Rob indicated that the on-boarding training was designed to accommodate this purpose as well as serve as an introduction to Massachusetts requirements for any newly appointed state or municipal inspector.

Kerry Dietz indicated that the training looked intriguing, but was concerned that it was too much to cover in the allotted time periods. Nonetheless, she noted that the training would also be of interest to others, such as architects and engineers, not just building officials.

Rob agreed that the content was a lot and indicated that the curricula had originally been contemplated as even more extensive. However, recognizing staff limitations, Rob indicated time allotment has been pared-down in order to make it manageable, at least for initial implementation. Over time, Rob hoped to extend time periods and content categories for more meaningful trainings.

Rob further indicated that the only way the training is at all possible is because state building inspectors and AAB Director, Tom Hopkins have volunteered deliver the trainings as outlined. Although participants will need to work on requirements as part of their normal day's experience, no one person has more than a one-half day presentation, making it (*somewhat*) manageable. All those who offered to participate are excited about making it happen since it has been a long-standing Department goal.

Those participating as instructors are targeting mid-February as an introduction for the training (*this may change depending on facility availability and other factors*). It is anticipated that the first iteration may be a little rocky, but over time, it will develop well. Additionally, it is anticipated that the inception training will be offered to all desiring to attend, with inspectors having first opportunity. Rob also mentioned that several state building inspectors had offered to participate as instructors for certification exam preparatory courses thereby allowing 2 offerings at the beginning and end of each year for inspectors seeking certification as either a local or inspector of buildings\building commissioner to benefit from a preparatory course. Rob and Board members thanked all inspectors (*and others*) for their willingness to participate in these education programs and were excited for programs to begin. Board members accepted the draft on-boarding curricula as a starting point for trainings, recognizing that things may develop, change and\or expand over time.

With on-boarding training in place, Rob indicated that the final (*codes and standards*) exam module will be phased-out with implementation of the Ninth Edition. However, since the change has been approved as a revision to the Ninth Edition code, technically, it would not be of benefit until the new code is promulgated. Rob asked if Board members would consider the training applicable prior the Ninth Edition becoming effective so that those who take the course during the beginning stages are able to apply it as a substitute to their certification exam schedule. Rob indicated that Board members allowed a similar practice when CSL continuing education program requirements

were first introduced. Board members agreed to allow so long as there were not any negative legal implications.

10. Rob Anderson provided a brief overview of the Ninth Edition code promulgation and transition to new CSL exam requirements. Rob indicated that the code is still under consideration through *Executive Order* (EO) 562, but has not yet been released for public hearing. Rob also indicated that members of the Construction Supervisor License (CSL) exam transition team have been busy converting exam criterion to the Ninth Edition. Although not fully completed, transition team members expect to complete tasks shortly.

Kerry Dietz is concerned that the delay in implementation of the Ninth Edition is posing difficulties and embarrassment for Board members since they are not able to provide definitive guidance to constituent groups. Kerry indicated that building owners, architects, engineers and building contractors are confused as to which code to use for current projects. The delay is posing difficulties.

State Building Inspector, William Horrocks raised similar concerns regarding CSL exam transition indicating that exam candidates and preparatory course instructors do not know which code should be used for preparation (*eighth or ninth edition*). Inspector Horrocks encouraged Board members to transition to the Ninth Edition exam criterion at the turn of the year to lessen difficulties, noting that it is becoming increasingly difficult for candidates to find copies of the Eighth Edition codes to take the exam.

Board members decided to review the matter further during their January meeting.

11. No action was taken on Wayne McGuire or medical exemption license issues. These topics will be reviewed during the January meeting.
12. Rob Anderson indicated that former Board member and Fire Protection Engineer, Maurice Pilette, had developed *Chapter 9 Tier 1 Fire Protection Guidance* for use with the Eighth Edition Code. Mr. Pilette has requested that the guidance be reviewed, updated and re-issued for use with the Ninth Edition code. Board members agreed to forward the former guidance to members of the Fire Prevention\Fire Protection (FPFP) Committee for review and updating.
13. Chairman Crowley and Rob Anderson addressed certain DPS staffing changes recently implemented indicating that Tom Riley, who retired under the 2015 incentive program but returned as a part-time employee, decided to fully recently retire and DPS Manufactured Building Director, Steve Kennealy, decided to leave public service and return to private sector work. Additionally, it was revealed that Rob has resumed duties as DPS Building Chief and Felix Zemel has assumed an overlay of Tom Riley's and Steve Kennealy's duties. At present, it does not appear that the technical director position or director of education position will be filled, unless budget issues improve. Chief Gallagher, Chairman Crowley and others noted that DPS staffing is thin and expressed concern about being able to achieve Board mandates as well additional matters approved under this meeting agenda.
14. Chairman Crowley asked if there was any unanticipated business. Rob Anderson indicated that he had received a call from State Building Inspector, Gordon Bailey, shortly before the meeting who expressed concern about on-line postings relating to implementation of new energy code

standards in January, 2017. According to Gordon and some other municipal inspectors who have explored the issue, there may be some extraneous, antiquated and/or incorrect code references that may cause difficulties when new requirements become effective in January.

If understood correctly, Rob indicated that Gordon and others have tried to work through the code logic reference issues, but due to what are believed to be faulty references, are left without clear guidance. Although Rob indicated that he did not have an opportunity to corroborate the concerns, he asked permission to review further and, if necessary, to publish guidance to inspectors and code users so that it is clear as to how to achieve code compliance when new requirements are made effective.

DOER Deputy Director, Ian Finlayson was present at the meeting and indicated that he was surprised to hear of the concerns since they had reviewed requirements extensively against both Eighth and Ninth Edition provisions to ensure that they worked well with both. It appeared to him that there may be some clarification guidance needed to assist with the understanding of how new requirements are intended to work and he offered to help clarify.

Following discussion, on a **MOTION** by Michael McDowell seconded by John Couture, it was unanimously voted to allow DPS staff to work with DOER to develop and issue clarifying guidance on the appropriate implementation of new energy code requirements.

EXHIBITS:

- A. Meeting Agenda.
- B. BBRS Meeting Minutes November 22, 2016 (*Approved with comment*).
- C. Building Official Certification Committee (BOCC) Meeting Minutes November 2, 2016 (*Approved*).
- D. *International Firestop Council White Paper.*
- E. *Insurance Institute for Business and Home Safety Report.*
- F. *CSL Continuing Education On-line Training Protocols.*
- G. *On-boarding and Final Exam Module Standards.*